

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ESTHER ROBLEDO,

Plaintiff,

v.

**MICHAEL J. ASTRUE, Commissioner
of Social Security,**

Defendant.

No. 3:11-cv-01276-MO

OPINION AND ORDER

MOSMAN, J.,

Plaintiff Esther Robledo seeks [2] judicial review of the Commissioner's final decision awarding her partial benefits in the above captioned case. The Commissioner filed a motion to remand [20] for further administrative proceedings. The main issue between the parties is whether this case should be remanded for payment of benefits or remanded for further administrative proceedings. I conclude that this case warrants a remand for further administrative proceedings.

DISCUSSION

On March 11, 2010, Administrative Law Judge ("ALJ") Joel T. Elliott issued a decision finding Ms. Robledo disabled beginning on October 3, 2005, but not disabled at any time through December 31, 2001. (Admin. R. [11-3] at 17–22.) Ms. Robledo argues that the ALJ erred by (1) improperly rejecting opinions of her treating physician Dr. Drummond; (2)

improperly rejecting her testimony; (3) failing to explain his reasoning at step three of the disability analysis; (4) failing to consider all of her medically determinable impairments; and (5) improperly inferring the onset date of her disability. (Pl.'s Opening Br. [12] at 5.) The Commissioner filed a motion to remand conceding the first three issues and requesting further administrative proceedings. (Comm'r Mot. for Remand [20] at 5.) Further, the Commissioner argues that the ALJ did not properly consider the issue of *res judicata* related to Ms. Robledo's two prior applications for disability benefits. (*Id.* [20].)

The Commissioner's motion to remand for further administrative proceedings is GRANTED. On remand, the ALJ is ordered to reevaluate (1) the opinions of Dr. Drummond; (2) Ms. Robledo's credibility; (3) step three of the disability analysis; (4) all of Ms. Robledo's medically determinable impairments in formulating her residual functional capacity; (5) Ms. Robledo's onset date; and (6) *res judicata* of any and all prior applications for disability benefits filed by Ms. Robledo.

IT IS SO ORDERED.

DATED this 6th day of February, 2013.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge